

APPROVED: Meeting No. 27-82

ATTEST:

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 23-82

June 7, 1982

The Mayor and Council of Rockville, Maryland, convened in executive session in the City Manager's Conference Room at 7:00 p.m. to discuss personnel. There being no further business to come before the Council in executive session the meeting was adjourned.

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, June 7, 1982, at 8:00 p.m.

PRESENT

Mayor John R. Freeland

Councilman Steve Abrams

Councilman Douglas Duncan

Councilwoman Viola Hovsepian

Councilman John Tyner, II

The Mayor in the Chair.

In attendance: City Manager Larry Blick; City Clerk Helen Heneghan; City Attorney Paul Glasgow; Director of Community Development and Housing Assistance Douglas Horne; Public Information Officer Sue M. Patterson; Director of Public Works Robert Goodin; Assistant City Manager Daniel Hobbs; Director of Planning James M. Davis; Chief of Police Jared Stout.

Re: City Manager's Report

Mr. Blick reported the following:

1. Rockville has been selected as one of five finalists in the annual City Livability Awards Competition, a joint project of the United States Conference of Mayors and Philip Morris, Inc. The winner will be announced on June 21 during the 50th Annual Conference of Mayors meeting in Minneapolis/St. Paul. Other finalists in the competition are Baltimore; Chicago; Evanston, Illinois; and Tempe, Arizona. The City was cited for both its visual and performing arts accomplishments and described in the announcement of finalists as a community that "increases civic pride and identity through its arts program".

2. The Court of Appeals has rejected all appeals to this year's legislative redistricting action.

Councilman Tyner said the staff has completed a work up on the Rockville Housing Authority survey and it will be coming to the Council next week. He

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plans to meet with the Housing Authority and the Executive Director and report back to the Council.

Re: Proclamation: Safe
Boating Week - June
6-12, 1982

Proclamation No. 5-82

There being no objection from the Council, Mayor Freeland proceeded to issue Proclamation No. 5-82, the full text of which can be found in Proclamation File No. 2 of the Mayor and Council proclaiming the week of June 6-12, 1982, as Safe Boating Week in Rockville. Councilman Tyner read the proclamation at the request of the Mayor in which it was urged that citizens who enjoy boating activities wear well-fitted protective floating devices while engaged in this pasttime. Mr. Dannaker accepted the proclamation from the Mayor.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council:

1. Robert Jacques. Mr. Jacques addressed the Council about the severe traffic on Aster Boulevard and suggested speed bumps. Mayor Freeland asked the Traffic and Transportation Commission to come back with a report for the Council and a recommendation.

2. Glenn Looper. Mr. Looper told the Council that on May 11 at 1:00 in the morning he was alerted to a problem at his place of business on Stonestreet Avenue. Rockville Police officers investigated the problem and he commended them for their excellent actions.

3. Bernard Gaunt, 308 Lincoln Avenue. Mr. Gaunt thanked the Mayor and Council on behalf of the Friendly Club for its first prize award in the Memorial Day Parade. He asked that the Mayor and Council look into the firm that is doing concrete repair in the City since the work does not last long and there should be a better mix to make it stand up better.

There being no other citizen wishing to be heard, the Mayor closed the citizen's forum portion of the meeting.

Re: Award of Contract: Bid
No. 45-82, 4-6 ton roller

On May 25, 1982, at 3:00 p.m., Bid No. 45-82 was opened. There were 68 proposals sent out and six responses were received.

VENDOR	ROLLER	TOTAL
John C. Louis Co., Inc. Hagerstown, Maryland	Galion 4-6 Ton	\$19,315.00
George Associates, Inc. Silver Spring, Maryland	Ingram 4-6 Ton	21,480.00
General Supply & Equipment, Co., Inc. Baltimore, Maryland	Ferguson 4-6 Ton	22,152.00
State Equipment Baltimore, Maryland	Hyster 4-6 Ton	25,526.00
Phillips Machine & Tractor Inc. Alexandria, Virginia	Pavemaster 4-6 Ton	25,539.00
Dynapac Light Equipment Inc. Stanhope, New Jersey	Pavemaster 4-6 Ton	34,300.00

The amount of funds budgeted for this replacement, as provided in the Vehicle Replacement Fund, is \$26,000. Staff recommends the award be made to John C. Louis, Inc., for the amount, as bid, of \$19,315.00.

On motion of Councilwoman Hovsepien, duly seconded and unanimously passed, Bid No. 45-82 for a 4-6 ton roller was awarded to John C. Louis Company, the low bidder in the amount of \$19,315.00.

Re: Award of Contract: Bid
No. 56-82, Water and Sewer
Fallsmead Subdivision

Bids were opened on Wednesday, May 26, 1982, at 3:00 p.m. in the City Hall Council Chambers for the installation of sewer, water, and house services for Fallsmead subdivision. This project will serve twenty-six single family homes and was authorized by the Mayor and Council as a special assessment project on January 25, 1982.

Fifteen bid documents were picked up by the contractors and ten bids were received as follows:

Calcon Company, Inc., Gaithersburg, Maryland	\$86,280.00
Pleasant Excavating Company, Inc. Clarksburg, Maryland	87,887.50
DiMeglio Construction Company, Inc., Adelphi, Maryland	93,210.00
Tri-County Utilities, Inc., Fulton, Maryland	94,866.50
Deneau Construction, Inc., Gaithersburg, Maryland	95,165.00
Landcraft Company, Inc., Alexandria, Virginia	96,307.00
Joseph Canova & Son, Inc., Laurel, Maryland	99,795.25
Libson-Madeira, Ltd., Kensington, Maryland	104,775.00
City Contractors, Inc., Hyattsville, Maryland	113,851.60
Rapp Contracting, Inc., Beltsville, Maryland	136,965.00
Engineer's Estimate	\$ 94,200.00

The prices proposed by the low bidder, Calcon Company, Inc., are extremely favorable, reflecting the current trends of reduced prices for water and sewer installations. This contractor is well experienced and has previously performed similar work in a satisfactory manner for the City. Staff recommends award to the low bidder, Calcon Company, Inc., in the amount of their low bid of \$86,280.00.

On motion of Councilwoman Hovsepain, duly seconded and unanimously passed, Bid No. 56-82, Fallsmead Subdivision water and sewer extension, was awarded to Calcon Company, Inc., the low bidder, in the amount of \$86,280.00.

Re: Approval of extension of
time of settlement -
Mannakee Investors

On December 14, 1981, the Mayor and Council agreed to extend the time of settlement until May 17, 1982, under a contract with Mannakee Investors which is the contract purchaser of 1.97 acres of property at the corner of Mannakee Street and Hungerford Drive within the Montgomery College Urban Renewal building on the site. In December, the price of the property was increased from \$519,700 to \$601,200 in order to reflect the current market value.

Glen J. Koepenick, Jr., a general partner of Mannakee Investors, has recently requested an additional sixty (60) days to complete settlement. Mr. Koepenick has indicated that considerable progress has been made by Mannakee Investors on the project.

Mannakee Investors submitted a deposit in the amount of \$25,000 at the time the contract was signed which is presently being held by the City. Mr. Koepenick has also indicated that he has expended \$175,000 in planning and design of the project.

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The contract could, however, be terminated after July 19 resulting in a forfeiture of deposit by Mannakee Investors.

It is recommended that the Mayor and Council extend the time for settlement with Mannakee Investors to July 19, 1982. If Mannakee Investors does not make settlement by July 19, 1982, an appraisal should be made to further update the value of the subject property if further extension is needed.

Councilman Tyner asked if this if the third or fourth extension. The City Manager said it is the second. Mayor Freeland was concerned if the sixty days is enough time for the purchaser to go to settlement. Councilman Tyner said he would like the Council to be informed as soon as possible of any change in purchaser's status.

On motion of Councilman Abrams, duly seconded and unanimously passed, the Mayor and Council extended the time for settlement until July 19, 1982.

Re: Review of proposed
Amendments to disposition
agreement for sale of Town
Center properties to New
Rockville Town Center
Partners (Winmar/Nordal)

The City Manager gave the Council a revised copy of the disposition agreement with the New Rockville Town Center Partners that included the modifications contained in the letter of understanding and the result of ensuing conversations with the proposed developer. He explained the amendments in detail. He drew the attention of the Council to Section 3-301 which makes the provision for the developer to discharge its obligation for residential development, if such development is financially unfeasible. The City Manager suggested that if the developer is unable to work out something on residential, the City should be allowed one year to obtain a contract with someone to build residential units. If it would be impossible, then it would prove the developer, Winmar/Nordal, was right all along and negotiations could begin on turning it into offices. Councilman Abrams asked how early that could be determined. The City Manager said immediately upon construction of parcel 0-3. Mr. Titus suggested dealing with it by changing the date. Councilman Abrams suggested another idea would be to have a third party decide when the parties disagree. The City Manager asked if the developer would consider that. Peter Stahel speaking for the developer said they would not consider that. If residential construction is warranted, his company will build it, but

only if it's warranted in his opinion. He said they would prefer not to have somebody else tell them what their studies contradict. The City will then have a year to secure somebody who can do it. If not, Winmar/Nordal can be put back into the deal, but at the present time he feels arbitration is dangerous. It can take a long time and still does not decide any issues. Councilman Tyner agreed with Mr. Stahel's remarks. Councilwoman Hovsepian did also. The rest of the Council agreed to this change.

The City Manager noted a change that would obligate the City to provide an alternate parking plan for the developer at a cost not to exceed that of a public parking facilities proposal including the Town Center Garage should the garage not be available for inclusion in such a plan. He said this is not reasonable. Mr. Titus suggested new language and Council agreed to this. Councilwoman Hovsepian noted that the staff has 3 months to come up with a parking district plan. The City Manager said a preliminary plan would be before the Council in 30 days.

The City Manager noted that Section 4.09 and Section 4.10 obligate the City to utilize its best efforts to ensure employment of City residents during construction. He said putting this in the contract gives the City enforcing responsibility and could be time consuming. Councilman Abrams said the intention is good but potential ramifications can lead to unintended results. Mr. Stahel said he would prefer it in a side letter. It is equally enforceable but does not cloud the contract. It would also be a red flag to lenders. The Mayor said it would seem the Council would be comfortable with a separate document and he would like to have that ready by Monday. He is delighted to see all the points raised worked into the document because everyone has the same intentions and that is successful development in downtown Rockville. Mr. Vitol addressed the Council and said he has a problem with the Sections 3.01 concerning residential development. He said it seems a disservice to the citizens. The City should hold the sites for three or four years after the six year study time to see if residential can occur because there may be some time in the future when it can be done. Councilman Abrams asked how long Mr. Vitol would consider a reasonable time to hold the land. Mr. Vitol said he did not know in exact time. Mayor Freeland noted that he is quite comfortable to look at the feasibility. He is delighted with the intentions to make parts 0-4 and 0-5 residential but if it is not feasible it is just not. Councilman Abrams noted the signing date of June 20 and asked if that allowed

time for Winmar/Nordal to study the Rockville Mall. Mr. Stahel outlined all the steps that Winmar/Nordal has taken - plans, studies, discussions, pro formas, leasing possibilities, etc. - and has evaluated the Mall's potential for investment. They are not able to take a direct interest. Mr. Eisinger controls the deal with Sulzberger/Rolfe. Winmar/Nordal has offered to be a catalyst to seeing the Mall done. Councilman Abrams asked if there is anything in the disposition agreement to reflect the relationship of the Commons property. Mr. Stahel said there is not. Councilman Abrams asked if there is any cross reference. Mr. Stahel said that was not done since it could be a bother to lenders. Councilman Abrams asked if it were inappropriate to include a land use plan. Mr. Stahl said absolutely. Winmar/Nordal has no control over the Mall. It is their hope that they will some time be linked since it would be a symbiotic relationship, but there is no legal connection between the two. Mayor Freeland asked if the condition of the Mall would slow up the project. Mr. Stahl said yes the Mall being refurbished would give Winmar/Nordal a lift and no Mall action being taken for one year would certainly hurt them. The Council agreed to the changes and a revised agreement will be brought forward to the Council next Monday night for action.

Re: Decision and Instructions
to staff re Annexation
Petition X-85-82, Westmont
Associates, 14.66 acres
north of GEICO building east
of I-270, Jackson property

The petitioners request annexation into the City of Rockville of a 14.66 acre parcel of land located north of the GEICO building, east of I-270.

No plans for use or development of this parcel are made at this time. It is possible that it may be included in a development proposal for larger properties to the north and east of the parcel.

This annexation was the subject of a public hearing on May 10, 1982.

Councilman Tyner asked if the staff would like to speak to petitioners regarding the lake configuration. Mr. Owens noted that the petitioner has agreed to the two key conditions suggested by the Planning Commission which were 1) dedication of necessary right of way in continuation of Monroe Street up to and through the Jackson property and 2) conveyance to the Mayor and Council of land necessary for the construction of south Rockville multi-purpose lake. The

civic configuration can be adjusted and the necessary land needed is flexible. Councilman Tyner said he would like to know if a study of the lake is a problem to the developer. Mr. Kominers, speaking for the petitioner, said that the applicant can only assume reasonableness on the part of the City and feels the City would not expand the lake to render the property useless. They plan it to be a partnership since storm water management is the paramount purpose of the lake. Councilwoman Hovsepain asked if the civic associations have had an opportunity to comment. Mr. Owens said the Public Works department met with the North Farm community and discussed the annexation. Councilman Abrams suggested the North Farm meeting next Tuesday at Farm Land School. The staff might attend so that the citizens can be made more aware of the situation.

On motion of Councilman Tyner, duly seconded and unanimously passed, the staff was instructed to prepare the necessary documentation to annex the property with the conditions noted.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. C. Joseph, Montrose Civic Association re Board of Education suit
Councilwoman Hovsepian asked if any consideration had been given to this suggestion of withdrawing Congressional Elementary School from the Board of Education suit. The Mayor said the City could not adjust the case and he explained the intent of the suit. He said he will be writing to this correspondent confirming the City's discussion since he had talked to this person last week and updated the City's case for her benefit.
2. R. Weirich, Traffic & Transportation Commission re activities this past year
Councilman Tyner acknowledged the receipt of this report from the Traffic and Transportation Commission.
3. C. & J. Hencken, re truck traffic in Croydon Park
Councilman Tyner asked if the Chief of Police would check this. The Mayor said he would like to see the Traffic & Transportation Commission look into it also but the Police should be there right away.
4. R. Turner, Economic Development Council, re Town Center Plan
5. In-B-Tweeners, commending City employees
6. Brent Road petition re street problem
Councilwoman Hovsepian asked the staff inquire if residents would want to pay for street widening and curb and gutter installation.
7. W.R.I.T., re parking agreement for Commons garage
Councilwoman Hovsepian asked if staff has answered this request for a parking agreement. The Mayor asked the City Manager to send a letter and indicate the City's position.

8. Gordon Baker, re Police ticketing practices
Councilwoman Hoysepian asked for the City's position on weekend parking in the City Hall lot. The City Manager said the officer will be asked why the tickets were written on Saturday.
9. Board of Education, response to West Rockville renaming suggestion
10. Congressman Barnes re Rollins Post Office relocation

Re: Information Items

1. Memo from Police re First Street
2. Memo from Public Information Officer re newsletter issues
3. Copy of letter from concerned citizens

Mayor Freeland noted it is difficult to find a method of dealing with irresponsible speeders, but there is nothing to preclude the City from notifying a vehicle owner that his vehicle was involved in a violation of the law and will be monitored in the future. He asked the City Manager to come back with recommendations on what will constitute a deterrent. He noted a copy of a report from the County Executive from the Ad Hoc Task Force on Drinking and Driving which is abuse of other peoples rights. He said the City should put forth an effort to support the County's drunk driving program. Councilman Duncan noted he was a member of the task force and the Chairman would like to address the Mayor and Council on this program. He noted that the City has placed \$250 in the budget for a call-a-cab program. Mayor Freeland agreed and asked that Mr. Short, Chairman of the Commission, be notified and asked to do a presentation to the Mayor and Council on this subject.

4. Copy of County Bill 17-82, re selling of ammunition
5. Copy of thank you notes
6. Memo from CDHA re CDBG funding FY 83
7. Announcement from Montgomery County re solid waste disposal fee
8. Residents letter re Veirs Mill ramp construction
9. Landfill information
10. Memo re plastic pipe usage

Councilman Abrams thanked staff for this memo on plastic pipe and said he does not feel it answers the questions asked. It does not identify the conditions in which iron pipe should be used. He would like the Council to have more answers to this. The City Manager said it would be forthcoming.

Re: New Business

1. Councilman Abrams noted that the Council approved the Council of Government's Air Quality Plan. After C.O.G. recomputed the program, there were no additional measures needed.

2. Councilman Abrams noted that last Thursday, a resources recovery seminar was held which discussed using trash for energy supply. It is definitely a cost savings from less landfill costs in addition to the energy generated. Ross Hoffman and Abraham Michaels gave talks. The City should look into its own options since the County's is a problem. It would involve numerous small installations instead of one very large one. He also noted that the flow control ordinance may not be effective.

3. Councilwoman Hovsepian asked for an update on the Maryvale School situation. The City Manager noted that a copy of the letter to the County Executive was given to the Council and that summarized it. The County has agreed to it and the public hearing was cancelled. The Mayor asked if the question had been resolved concerning the mortgage and public use. The City Manager said the County is getting that opinion and there will be no transfer until then. Councilman Duncan noted response is being held up until the question of public use has been settled. There should also be indemnification for the developer who has done the clean up. The Mayor asked since this is not a closed issue, that the Council receive periodic updates.

4. Councilman Duncan brought up the subject of the Hungerford Tavern in a memo before the Council this evening. He asked if it were not true that the Council had agreed to push the project back one year. The City Manager agreed and said the staff time had been put into the Historic Preservation project. The Mayor asked this be postponed until the work session.

5. Councilman Tyner suggested it might be time to begin the goals process once more and solidify opinions. He would like the City Manager to give the Mayor and Council details on beginning the process and how it was set up. The Mayor said he would like some thoughts on reassessing but the staff is not the key player in the situation. The Mayor suggested that the goals that were set be sent out to community organizations and ask for their comment since that would be more important to the Council than the staff assessment. Discussion continued on this matter. Councilman Tyner said he would like to see the process done again and the Mayor said the staff could give the Council copies of the stated goals and how they relate to the current budget. Councilwoman Hovsepian noted that prioritization never was done. Councilman Duncan questioned the utility, the timing, and how often they should be redone. The Mayor said it would be more important to decide whether the last exercise accomplished what it should.

Re: Budget Work Session

The following table is a summary of Mayor and Council actions on the FY 83 Proposed Budget as of June 2, 1982:

<u>General Fund</u>	<u>Budget</u>	<u>Revenue</u>
Original Appropriation:	\$13,117,785	\$13,117,785
<u>Mayor & Council Changes</u>		
1. Make adult athletics self-supporting by increasing fees		11,242
2. Additional gas and motor vehicle tax revenue, based upon 1982 legislative changes		58,000
3. Eliminate additional funding for the Emergency Assistance Program; est. \$90,000 will remain in fund at end of FY 1982	(25,000)	
4. Institute 24 hour telephone recording of Mayor and Council agendas	485	
5. Eliminate U.S. Conference of Mayors dues	(1,100)	
6. Eliminate National League of Cities dues; will be considered at midyear for reinstitution.	(1,499)	
7. Add holiday street decorations for Courthouse Square; request the Chamber of Commerce to fund half, as had been done in the past	10,000	5,000
8. Council Chamber refurbishing: to provide funding for needed replacement of carpet, council and staff chairs, staff tables, and for painting	6,000	
9. Reallocate funds within the budget to bring the Senior Citizens Commission up to full requested funding (\$480 reallocated)	-	
10. Provide the following funding for the Humanities Commission:		
a) Lincoln Day prized for youth	450	
b) Oral history project	1,350	
c) Hanna Award-endowment fund	1,000	
11. Provide the following funding for the Human Rights Commission	2,100	
12. Targets of Opportunity: Provide funding for Mayor and Council initiatives	25,000	
TOTAL	\$13,136,571	\$13,192,027

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Based upon decisions made on June 1 by the Mayor and Council, FY 1983 proposed revenues exceed proposed expenditures by \$55,456.

Councilman Tyner moved, duly seconded, that the Council approve the wish list and that the balance be put in pay-as-you-go to reduce the cost of debt service on programs. The Council agreed to this unanimously. Councilwoman Hovsepien noted that she would like to see some of the funding directed to the traffic light at Dawson Avenue and for the demolition of Maryvale School. She asked if the Council had considered mailing free agendas to civic associations. There was no support. Councilwoman Hovsepien asked if in future budgets a list of the positions in each department and what step they are at would be included. The City Manager said this is difficult to do by program. Councilwoman Hovsepien said it would make things more understandable for the Council and the public. Councilman Abrams asked that this be done by way of an organization chart. Councilwoman Hovsepien asked what will be done about West Montgomery Improvement at Van Buren. Councilman Duncan noted that \$4,000 was put into planning. Councilwoman Hovsepien noted a letter from the New Mark Civic Association asking for a light at Maryland Avenue and Falls Road. Mayor Freeland explained that it is part of the Falls Road interchange improvement and will be done by the State. Councilman Abrams asked if the Council might at some time review memberships in the Maryland Municipal League and the Council of Governments as they had done this year with the National League of Cities and Conference of Mayors and discussion followed on this. Councilman Duncan asked that the staff give an update on the Hungerford Tavern decision. Mr. Davis explained that there was no planning money for this year and this would in essence kill the project because of a year's delay. The City Manager reiterated the amount of money that would have to be spent for this referring to the expenditure of \$1.2 million. The Council agreed that this was not a priority item and there would be no funding for it. However, it could be a challenge to the community. Mayor Freeland instructed the staff to tell all the people who are involved that because of priorities, the Hungerford Tavern is a closed issue.

Re: Executive Session

On motion of Councilman Duncan, duly seconded and unanimously passed, the meeting was closed for executive session to discuss litigation.

Re: Adjournment

There being no further business to come before the Council in executive session, the meeting was adjourned at 12:10 a.m. to convene again in executive session on Thursday, June 10, 1982, at 7:00 p.m. or at the call of the Mayor.